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Protracted conflicts in the GUAM area and their implications for international peace, security and development

The situation in the occupied territories of Azerbaijan

Letter dated 23 March 2009 from the Permanent Representative of Armenia to the United Nations addressed to the Secretary-General

I would like to submit herewith for your attention the text of the memorandum entitled "Nagorny Karabakh: peaceful negotiations and Azerbaijan's militaristic policy" (see annex).

I would highly appreciate if you could circulate the text of the memorandum as a document of the General Assembly, under agenda item 13 and 18, and of the Security Council.

(*Signed*) Armen **Martirosyan**
Ambassador
Permanent Representative

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Please recycle

Annex to the letter dated 23 March 2009 from the Permanent Representative of Armenia to the United Nations addressed to the Secretary-General

Nagorny Karabakh: peace negotiations and Azerbaijan's militaristic policy

March 2009

Foreword

Taking into consideration the fact that the reports transmitted by the Republic of Azerbaijan to the United Nations General Assembly on 22 and 26 December 2008, namely "Report on the legal consequences of armed aggression by the Republic of Armenia against the Republic of Azerbaijan" and "Report on the fundamental norm of the territorial integrity of States and the right to self-determination in the light of Armenia's revisionist claims", as well as the "Reports on the international legal responsibilities of Armenia as the belligerent occupier of Azerbaijani territory" and "Support by States Members of the United Nations and international organizations to Azerbaijan's position on the conflict in and around the Nagorny Karabakh region of Azerbaijan" circulated by Azerbaijan on 23 January and 17 February 2009, misinterpret the essence of the Nagorny Karabakh problem and hinder the process of peaceful settlement, the Permanent Mission of the Republic of Armenia to the United Nations distributes the following report on Nagorny Karabakh.

Militaristic policy pursued by Azerbaijan on the Nagorny Karabakh conflict resolution has recently severely intensified and is posing a serious threat to the regional peace and security. This, in turn, significantly hinders the process of the peaceful settlement of the conflict within the framework of the OSCE Minsk Group.

In the South Caucasus, any careless word, any irresponsible step can trigger unpredictable consequences, while the military build-up in Azerbaijan and bellicose statements made at the highest level add tension to the overall environment. Contrary to the spirit of the negotiations within the OSCE Minsk Group, Azerbaijan has, for years, been developing and carrying out a large-scale campaign of anti-Armenian propaganda, instilling racial hatred and intolerance against the Armenians.

Within a short period of time Azerbaijan has increased its military budget tenfold, blatantly violating the norms of arms limitation stipulated by the international treaties, particularly exceeding the maximum permissible limits of the armaments specified under the Treaty on Conventional Armed Forces in Europe. Azerbaijan's hostile statements and threats, as well as frequent violations of the existing ceasefire, constitute elements of aggression.

On the international arena, Azerbaijan consistently misrepresents the essence of the Nagorny Karabakh problem, trying to conceal the ethnic cleansings and its policy of violence conducted against the people of Nagorny Karabakh in 1988-1991. Consequently, these actions developed into open aggression and large-scale hostilities against the self-determined people of the Republic of Nagorny Karabakh,

which also involved mercenaries closely linked to terrorist organizations, and ultimately claimed the lives of tens of thousands of civilians.

Wounds of the previous war, unleashed by Azerbaijan, are still raw, but Azerbaijan is already pursuing a policy aimed at provoking a new one. In the United Nations General Assembly and Security Council the Azerbaijani side has circulated "reports" and draft resolutions on the Nagorny Karabakh problem, which not only have a negative impact on the process of negotiations, but also contain Azerbaijan's intent to legitimize possible military aggression against Nagorny Karabakh and the Republic of Armenia.

The Republic of Armenia believes that there is a serious basis for the settlement of the Nagorny Karabakh problem, if the provisions contained in the Declaration signed by the Presidents of the Republic of Armenia, the Republic of Azerbaijan and the Russian Federation on 2 November 2008, in Moscow, and also in the Declaration of the Foreign Ministers of the Co-Chair countries of the OSCE Minsk Group issued in Helsinki on 4 December 2008, and in the Declaration adopted by the Foreign Ministers of all 56 OSCE member States on 5 December 2008, are implemented. According to these documents, any military option must be ruled out as a means to solve the Nagorny Karabakh conflict, the parties must commit themselves to a political, peaceful settlement of the problem through negotiations, based on the "Madrid Recommendations" of the Co-Chairs of the OSCE Minsk Group.

Armenia is convinced that the commitment of the parties to refrain from steps that could hamper the dialogue and the peace process can create an opportunity for progress in the peaceful settlement of the Nagorny Karabakh problem.

I. Current phase of peace negotiations and Azerbaijan's destructive conduct

1. The current phase of the Nagorny Karabakh conflict started in 1988, when, in response to a just demand for self-determination by the population of Nagorny Karabakh, the authorities of the Azerbaijani SSR perpetrated massacres and ethnic cleansing of Armenians all over the country. In 1991, as a result of the collapse of the USSR, and in compliance with the USSR legislation and norms of international law, two States were established on the territory of the Azerbaijani SSR — the Republic of Azerbaijan and the Republic of Nagorny Karabakh. However, Azerbaijan launched large-scale hostilities against the Republic of Nagorny Karabakh, also involving mercenaries closely linked to terrorist organizations, which claimed the lives of tens of thousands of civilians and caused substantial material losses.

2. At the start of the war, the Republic of Azerbaijan occupied the major part of the Republic of Nagorny Karabakh, nearly reaching its capital Stepanakert. To ensure the security of its people, the armed forces of the Republic of Nagorny Karabakh were forced to carry the military actions into the territory of the adversary and took control of the adjacent regions, which served as a security buffer, preventing further bombardment of the settlements in Nagorny Karabakh and annihilation of its population. However, the armed forces of the Republic of Nagorny Karabakh were not able to liberate all the territories occupied by

Azerbaijan, including the entire region of Shahumian, and the eastern parts of the Martuni and Martakert regions.

3. In May 1994, at the meeting in Bishkek the Speakers of the Parliaments of Azerbaijan, Nagorny Karabakh and Armenia signed the final Protocol of the CIS Inter-Parliamentary Summit on the Nagorny Karabakh conflict, which laid the grounds for the subsequent ceasefire agreement. The latter came into force on 12 May and, despite some violations, has been respected to date.

4. In 1992-1994, the negotiations on the peaceful settlement of the Nagorny Karabakh problem were held within the framework of the CSCE. Starting from 1994 the negotiations continued under the mediation of the Co-Chairs of the OSCE Minsk Group. The Budapest summit of CSCE of December 1994 instructed the Minsk Group to conduct negotiations with all the parties to the conflict: Azerbaijan, Nagorny Karabakh and Armenia. The meetings between the Armenian and Azerbaijani Presidents and Foreign Ministers started in the OSCE framework since 1999. During the past 15 years the Co-Chairs have submitted numerous recommendations to the parties.

5. At the beginning of 2001, in Paris, as a result of two-phase meetings the Presidents of Armenia, Azerbaijan and France reached an agreement in principle on the settlement of the conflict, which was documented in Key West (United States). However, later, Azerbaijan refused to follow its commitments.

6. In 2004, a new "Prague Process" was launched between Armenia and Azerbaijan. Currently, the negotiations are based on the "Madrid Recommendations" submitted by the OSCE Minsk Group Co-Chairs to the Ministers for Foreign Affairs of Armenia and Azerbaijan and deposited with the OSCE Secretary General.

7. The Republic of Armenia values the mediation efforts of the OSCE Minsk Group Co-Chairs as a functional format of negotiations that has a sufficient potential to find ways for the settlement of the conflict. Meanwhile, as a result of a propaganda of the authorities of Azerbaijan against the Minsk Group mediation, 82 per cent of the population of Azerbaijan oppose the mediation efforts of the OSCE Minsk Group.

8. In parallel to the OSCE peace process, for years the Republic of Azerbaijan has been making attempts to transfer the issue of the settlement of the Nagorny Karabakh problem to other international frameworks, particularly to the United Nations, where many parties are somewhat less familiar with the nature and origins of the problem. Those efforts by Azerbaijan are solely aimed at dragging the peaceful resolution of the issue. On 14 March 2008, resolution 62/243 on the situation in the occupied territories of Azerbaijan, submitted by the Republic of Azerbaijan, was adopted by the General Assembly by only 39 votes out of 192 members of the United Nations. Around four fifths of the United Nations Members did not support the resolution. The OSCE Minsk Group Co-Chair countries voted against, noting in their joint statement that the resolution contains some principles selectively (the principle of territorial integrity) at the expense of other principles (the right to self-determination, etc). The adoption of this resolution not only hindered the negotiation process of Nagorny Karabakh conflict, but also had destructive consequences, launching a new wave of the years-old militaristic policy of Azerbaijan. Azerbaijan tried to ignore the existing format of the

negotiations and the "Madrid Recommendations" and to impose the General Assembly resolution as a basis for negotiation on the settlement of the Nagorny Karabakh conflict.

9. On 6 June 2008, at their meeting in St. Petersburg, the Presidents of the Republic of Armenia and the Republic of Azerbaijan reached a final agreement to accept the "Madrid Recommendations" as a basis for negotiations. The Presidents instructed their Ministers for Foreign Affairs to proceed with the negotiations on the basis of "Madrid Recommendations" to converge the positions of the parties on pending issues. Nevertheless, after the St. Petersburg meeting and up until the presidential elections in Azerbaijan in October 2008, Azerbaijan on the highest level continued its destructive policy questioning the "Madrid Recommendations".

10. The negotiation process was renewed on 2 November 2008 through the mediation and initiative of the Russian President Medvedev, in his capacity as the President of the OSCE Minsk Group Co-Chair country. The result of the Moscow negotiations was the signing by the Presidents of the Republic of Armenia, the Republic of Azerbaijan and the Russian Federation of the "Declaration on Nagorny Karabakh conflict". This initiative was approved and supported by the OSCE Minsk Group Co-Chairs. The main provisions of the Declaration are: (a) the political and peaceful settlement of the Nagorny Karabakh conflict; (b) the settlement of the Nagorny Karabakh conflict on the basis of the norms and principles of international law; (c) the reconfirmation of the continuity of mediatory efforts of OSCE Minsk Group Co-Chairs; (d) the continuation of the negotiations on the basis of the "Madrid Recommendations"; (e). commitment to supplement the settlement by international guarantees; and (f) creation of conditions for the implementation of confidence-building measures. Signing of the Declaration was a positive step towards the enhancement of the negotiation process. However, Azerbaijan has not only continued its destructive policy, but also tried to misrepresent and misinterpret the provisions of the Declaration, particularly stating that (a) the settlement of the problem does not exclude the use of force by Azerbaijan; and (b) the principle of territorial integrity is the only applicable principle, etc.

11. On 4 December 2008 in Helsinki, the Ministers for Foreign Affairs of the Republic of Armenia and the Republic of Azerbaijan met with the OSCE Minsk Group Co-Chairs on the margins of the OSCE Ministerial Council. The Ministers for Foreign Affairs of the OSCE Minsk Group Co-Chair countries in their statement reiterated their firm position that there can be no military solution to the conflict and called on the parties to recommit to a peaceful resolution. The Ministers also stressed the value of the Moscow Declaration, the continuation of the negotiations with the mediation of the Co-Chairs on the basis of the "Madrid Recommendations". The Ministers also called on the parties to finalize the Basic Principles and begin drafting a comprehensive peace agreement.

12. On 5 December 2008, in Helsinki, the Ministers for Foreign Affairs of 56 OSCE member States adopted a Declaration welcoming a peaceful and political settlement of the Nagorny Karabakh conflict, and efforts to develop confidence-building measures and to consolidate the ceasefire. The Ministers strongly encouraged the parties to intensify efforts in the negotiation process, stressed the significance of the Moscow Declaration, the positive momentum established after the St. Petersburg and Moscow meetings of the Presidents of the Republic of Armenia and the Republic of Azerbaijan, the continuation of the negotiations with

the mediation of the Co-Chairs on the basis of the "Madrid Recommendations". The parties were also encouraged to immediately pull out snipers from the conflict area, to enhance efforts to finalize the Basic Principles and to begin drafting a comprehensive peace agreement.

13. The Armenian side welcomed these statements and believes that through the commitment to the provisions of these statements the parties can achieve progress in the negotiation process. However, the Azerbaijani side once again ignored the appeals of the international community.

14. Presidents Serzh Sargsyan and Ilham Aliyev assessed their Zurich meeting of 29 January 2009 as constructive and instructed the two Ministers for Foreign Affairs to continue the negotiations with the mediation of the Co-Chairs on the basis of the "Madrid Recommendations".

15. However, Azerbaijan has continued its destructive conduct by circulating reports at the General Assembly on 22 and 26 December 2008, namely "Report on the legal consequences of armed aggression by the Republic of Armenia against the Republic of Azerbaijan" and "Report on the fundamental norm of the territorial integrity of States and the right to self-determination in the light of Armenia's revisionist claims", which not only hinder the process of the peaceful settlement, misinterpret the essence of the Nagorny Karabakh problem, but also attempt to legitimize Azerbaijan's intent of possible military aggression against Nagorny Karabakh and the Republic of Armenia. Azerbaijan's hostile statements and threats, as well as frequent violations of the existing ceasefire constitute elements of aggression.

16. In response to Azerbaijan's destructive conduct in the peace negotiations, the Co-Chairs of the OSCE Minsk Group on 19 February 2009 issued a joint statement, in which they stressed that, despite the two reports circulated at the request of the Permanent Representative of Azerbaijan to the United Nations on 22 and 26 December 2008, there is no military solution to the Nagorny Karabakh conflict. They expressed hope that the above-mentioned reports would have no bearing on the negotiations within the Minsk Group in pursuit of a peaceful and political settlement of the Nagorny Karabakh conflict, to which both Presidents committed themselves in their Moscow Declaration of 2 November 2008.

17. Despite the statement of the OSCE Minsk Group Co-Chairs, Azerbaijan continues its efforts to misinterpret the Nagorny Karabakh problem and, on 23 January and 17 February 2009, circulated new reports at the United Nations "Report on the international legal responsibilities of Armenia as the belligerent occupier of Azerbaijani territory" and "Support by States Members of the United Nations and international organizations to Azerbaijan's position on the conflict in and around the Nagorny Karabakh region of Azerbaijan".

18. Neglecting the requirements of the OSCE Helsinki Ministerial Declaration, Azerbaijan made a statement on 5 March 2009 at the 752nd meeting of the OSCE Permanent Council, pointing at the uselessness of the pull-out of the snipers from the Nagorny Karabakh conflict area.

19. Azerbaijan is intensifying its years-old militaristic policy, increasing its military budget tenfold and violating the arms limitation norms stipulated by the international treaties. Azerbaijan's war rhetoric, at the highest level, adds tension to the overall environment. According to the official results of a public opinion poll,

30 per cent of the population of Azerbaijan favours the military solution of the Nagorny Karabakh problem.

20. Armenia adheres to the peaceful settlement of the conflict and values the establishment of the environment of confidence necessary to continue the negotiations in a constructive way. The parties should refrain from any steps which may create additional tension and obstacles on the way to the peaceful settlement.

II. Legal and historical aspects of the Nagorny Karabakh problem

A. Development of the dispute (1918-1920)

21. The dispute over Nagorny Karabakh dates back to the period of the collapse of the Russian Empire after the October 1917 Revolution and the subsequent creation of three States in the South Caucasus: the Republic of Armenia, the Democratic Republic of Azerbaijan and the Republic of Georgia. Following the collapse of the Empire, Nagorny Karabakh (with 95 per cent of Armenian population) refused to subject itself to the authority of the Democratic Republic of Azerbaijan. The Nagorny Karabakh Armenians convened their First Assembly, which proclaimed Karabakh an autonomous entity and elected a National Council and a government.

22. The newly proclaimed Democratic Republic of Azerbaijan resorted to military means to suppress the peaceful resolve of the people of Nagorny Karabakh for self-determination. Between May 1918 and April 1920, Azerbaijani troops, backed by Turkish forces, continued the aggression against and massacres of the Armenian population of Nagorny Karabakh (in March 1920, around 40,000 Armenians were massacred or deported from the town of Shushi). However, that could not force the people of Nagorny Karabakh to submit to the Azerbaijani rule. Meanwhile, the newly independent Republic of Armenia had to mobilize to defend itself against the Turkish invasion, and was unable to protect Nagorny Karabakh or take diplomatic steps towards the resolution of the Nagorny Karabakh problem.

23. From 1918 to 1920, Nagorny Karabakh possessed all necessary attributes of statehood, including army and legitimate authorities. In August 1919, the National Council of Karabakh and the Government of the Democratic Republic of Azerbaijan concluded a Provisional Agreement on Nagorny Karabakh to avoid military conflict. Both sides agreed that the issue must be considered at the Paris Peace Conference. Thus, entering into agreement with the Karabakh National Council, Azerbaijan confirmed the status of Nagorny Karabakh as an independent legal entity. The Provisional Agreement was violated by the Azerbaijani side after the sovietization of Azerbaijan.

24. It was not until April 1920 that the Republic of Armenia could come to the rescue of the devastated population of Karabakh. On 23 April 1920, the Ninth Assembly of the Karabakh Armenians declared Nagorny Karabakh as an inalienable part of the Republic of Armenia.

25. In 1920, Nagorny Karabakh was recognized by Soviet Russia as a disputed territory between Soviet Azerbaijan and the Republic of Armenia. The Agreement signed on 10 August 1920 between Soviet Russia and the Republic of Armenia stated that the regions of Karabakh, Zangezour and Nakhichevan should be occupied by Soviet troops, but that would not predetermine the final possession of these

regions. The solution of the issue was subject to determination by a Pact to be signed between Armenia and Soviet Russia.

B. International response to the illegal claims of Azerbaijan

26. The international community, namely the League of Nations, recognized the disputed status of Nagorny Karabakh. The League of Nations rejected Azerbaijan's accession application on the grounds that it was unable to determine the borders of the state and its sovereignty over a territory. One of the disputable issues was the status of Nagorny Karabakh, within larger borders than its present ones.[1] (Memorandum of the Secretary General, the League of Nations, November 1920, reference no. 20/48/108). The League of Nations revisited the issue of Nagorny Karabakh in 1919-1920, at the Paris Peace Conference, when it committed itself to finding a solution to the problem, but the establishment of Soviet rule in the region left the issue out of international forums.

C. Nagorny Karabakh under Soviet rule (1921-1988)

Annexation of Nagorny Karabakh to Azerbaijan

27. On 30 November 1920, the Soviet Government of Azerbaijan adopted a Declaration on recognition of Nagorny Karabakh as an integral part of Soviet Armenia as a welcome act towards the victory of Soviet forces in the country.

28. On 21 June 1921, the Government of Soviet Armenia, based on Azerbaijan's Declaration and the agreement with the Azerbaijani Government, issued a Decree recognizing Nagorny Karabakh as an integral part of Soviet Armenia.

29. These documents were registered in the League of Nations resolution of 18 December 1920, and in the 1920/21 annual report of the Ministry of Foreign Affairs of Russia, respectively.

30. Neglecting the reality, on 5 July the Caucasian Bureau of the Communist Party, acting under Joseph Stalin's personal pressure, revised its own decision of the previous day and resolved to subject Karabakh to Azerbaijani rule and to create an autonomous province (oblast) of Nagorny Karabakh, within the territory of Soviet Azerbaijan. This decision cannot serve as a legal basis for the determination of the status and the borders of the Nagorny Karabakh: it was adopted by a third-country party, i.e. the Russian Bolshevik Party, with no legal power or jurisdiction; at the time of the decision, both Armenia and Azerbaijan were independent, albeit Soviet, States; the governments of the two States had not reached an agreement on status and borders; the decision was not based on a legal or historic reasoning, it was dictated by the will of an individual.

31. In December 1922, Soviet Armenia and Soviet Azerbaijan acceded to the Soviet Union and the Autonomous region of Nagorny Karabakh was established

[1] On 1 December 1920, the Fifth Committee of the Assembly of the League of Nations arrived at the conclusion that: Azerbaijan could not be regarded de jure a "full self-governing state", as it had not been recognized de jure by any member of the League of Nations. Moreover, the territory claimed by Azerbaijan "occupying a superficial area of 40,000 square miles appears to have never formerly constituted a State, but always been included in larger groups such as the Mongol or Persian and since 1813, the Russian Empire".

within the Azerbaijani SSR, thus freezing the solution of the Karabakh problem. This region comprised only parts of Nagorny Karabakh proper.

Human rights violations in Nagorny Karabakh under Soviet rule

32. Throughout its rule over Nagorny Karabakh, the authorities of the Azerbaijani SSR systematically violated the rights and freedoms of the Armenians of Karabakh. The Azerbaijani authorities deliberately hampered the social and economic development of Karabakh, turning it into a source of raw materials.[2] The Azerbaijani SSR pursued a policy of the eviction of the Armenian population from Karabakh, and destruction and appropriation of Armenian cultural and historic monuments.

33. Azerbaijan's discrimination towards Nagorny Karabakh had its impact on the welfare of its Armenian population and became a major migration factor. As a result, the Armenian population declined: while in 1923 Armenians constituted 94.4 per cent of the entire population of Nagorny Karabakh, in 1989, their numbers dropped down to 76.9 per cent. Meanwhile, the Azerbaijani population of Nagorny Karabakh increased several times as its growth was predominantly sustained by the influx from Azerbaijan: in 1923 Azerbaijanis constituted 3 per cent of the population of the area, while, by 1989, their number increased up to 21,5 per cent.

Appeals to revise the annexation of Nagorny Karabakh

34. The population and the authorities of the Autonomous Region of Nagorny Karabakh and the authorities of the Armenian SSR made numerous appeals to the Soviet authorities to revise the decision of the transfer of Nagorny Karabakh to the Azerbaijani SSR. All these demands were either ignored or rejected and their initiators severely persecuted. Some of those requests were: the 1945 appeal of the Communist party and the Government of the Armenian SSR to the Soviet Government and the Union Communist Party; in 1963 and in 1965, the Nagorny Karabakh population sent, respectively, 2,500 and 45,000 letters to the Soviet authorities; during the discussion of the draft Soviet Constitution in 1977, individuals and enterprises of the Autonomous Region of Nagorny Karabakh proposed numerous amendments.

D. Nagorny Karabakh in 1988-1991

35. The launch of *Perestroika* raised the hopes of Nagorny Karabakh Armenians for a fair and democratic solution of their issue. At the end of 1987, thousands of Karabakh Armenians initiated peaceful marches and demonstrations and the authorities of the Autonomous Region of Nagorny Karabakh submitted appeals and petitions to the Communist party of the USSR and State leadership. More than 80,000 people signed the public petition requesting reunification with the Armenian SSR.

36. On 20 February 1988, the special session of the People's Delegates of Nagorny Karabakh adopted a decision to "appeal to the Supreme Councils of the Azerbaijani and Armenian Soviet Socialist Republics to transfer Nagorny Karabakh from the

[2] "The people's economy of the Azerbaijan SSR" confirms that in 1981-1985 the per capita investments in Nagorny Karabakh half the average in Azerbaijan, and in 1986, this number reached 2.7.

Azerbaijani SSR to the Armenian SSR". This decision was preceded by similar ones from the local and district Councils.

37. The Soviet leadership attempted to shift the Nagorny Karabakh problem from the political into the social and economic domain. Meanwhile, the Azerbaijani authorities, used the ambivalent stance of the Soviet leadership to launch a ferocious media campaign in order to shift the whole problem into the inter-ethnic domain and in 1988-1990, instead of finding a peaceful solution to the issue, provoked violence, massacres and forced deportations (Sumgait massacres of February 1988; the Armenian pogroms throughout Azerbaijan, particularly in Baku, Kirovabad, Shemakh, Shamkhor, Mingechaur, in the Nakhichevan ASSR in November-December 1988; the major massacre of Baku in January 1990; the forced deportation of 24 Armenian villages in 1990 as a result of the "Operation Ring" — 2 in the Khanlar region of Azerbaijan, 3 in the Shahumian district, 15 in the Hadrout region and 4 in the Shushi region; and the Maragha massacre of April 1992.

38. In April-May 1991, the joint efforts of the Soviet and Azerbaijani authorities to deport the Armenian population of the Autonomous Region of Nagorny Karabakh and the surrounding regions culminated in the operation *Koltso* (Ring) carried out by the Soviet military structures, which stimulated the creation of the Karabakh self-defence army to resist the Azerbaijani offensive. In addition to the military offensive, the Azerbaijani SSR resorted to economic coercive measures and cut all commodity supplies, which were mainly delivered to the Armenian SSR and the Autonomous Region of Nagorny Karabakh through the Azerbaijani SSR. The result was the total isolation of Karabakh.

Creation of the Republic of Nagorny Karabakh

39. On 29 August 1991, the Azerbaijani SSR declared the restoration of the independence of the "Azerbaijani Democratic Republic of 1918-1921". On 23 November 1991, the Republic of Azerbaijan, unilaterally and without the consent of the population of Nagorny Karabakh, adopted a law on "Abolition of the Nagorny Karabakh Autonomous oblast", which also envisaged the renaming of certain Armenian cities.

40. In 1991, Nagorny Karabakh initiated the process of gaining independence in compliance with the USSR domestic legislation. Based on the USSR Constitution and the Soviet Law on "The procedures of the resolution of problems on the secession of a union republic from the USSR" of 3 April 1990, which stipulated that in case of a secession of a Soviet republic from the Union, people of autonomous republics, autonomous entities and national groups which densely populate particular areas are entitled to decide on their own whether to stay within the USSR or the seceding Union Republic, on 2 September 1991 the joint session of Nagorny Karabakh regional and Shahumian District Councils of People's Delegates adopted a declaration proclaiming creation of the Nagorny Karabakh Republic.

41. On 10 December 1991, Nagorny Karabakh held a referendum monitored by international observers and media representatives,[3] which confirmed Karabakh's independence: 108,736 of the registered 132,328 voters (82.2 per cent) cast ballots,

[3] The observers were the representatives of the former Union Republics, deputies of the Supreme Soviets of the USSR, Russian Soviet Federative Socialist Republic, Mossoviet and representatives of various international organizations and foreign States.

of which 108,615 (99.89 per cent) voted in favour. 17.8 per cent of the registered voters, mostly of Azerbaijani origin, did not participate. As a result Nagorny Karabakh was the only autonomy which gained independence before the collapse of the USSR according to the existing domestic legislation and the norms of international law.

42. On 6 January 1992, the newly elected Parliament of Nagorny Karabakh, based on the right of its people's for self-determination and the will of the people expressed through the referendum, adopted the "Declaration of Independence of the Republic of Nagorny Karabakh". The Parliament also appealed to the United Nations and the international community to recognize the Republic and to help prevent the extermination of the local Armenian population.

43. Following the collapse of the USSR, on the territory of the former Azerbaijani SSR two States were formed: the Republic of Azerbaijan and the Republic of Nagorny Karabakh. The establishment of both States has similar legal basis; and therefore the establishment of the Republic of Nagorny Karabakh on the basis of its peoples' right to self-determination should not be considered in the scope of territorial integrity of the Republic of Azerbaijan. This was also confirmed by the resolution of the European Parliament "On the support for the peace process in the Caucasus" of 21 June 1999, which recognizes the fact that Nagorny Karabakh declared its independence following similar declarations by former Soviet Republics.

44. In 1991, restoring its independence as a successor of the Republic of Azerbaijan of 1918-1920 and rejecting its Soviet legal heritage of 1920-1991, the Azerbaijani SSR lost all claims to the territories transferred to Soviet Azerbaijan in July 1921, including Nagorny Karabakh. Thus, the Republic of Nagorny Karabakh was formed on territories over which the Republic of Azerbaijan had no sovereignty.

III. Attributes of the independent State of the Republic of Nagorny Karabakh

45. Nagorny Karabakh gained its independence according to the domestic and international legal norms. In parallel to this legal process, Nagorny Karabakh successfully established all structures and attributes for the formation of an independent State:

Defined territory: Nagorny Karabakh exercises sovereign jurisdiction on a defined territory with its borders and is capable of providing security and normal living conditions to its citizens.

Permanent population: the vast majority of the people of Nagorny Karabakh constitute a homogenous group with historical ties to its territory.

Permanent administration exercising exclusive jurisdiction on a defined territory and people: Nagorny Karabakh is a Republic with presidential governing system. The National Assembly is the highest legislative body of the Republic. Since 1991 the National Assembly has adopted a series of laws necessary for the foundation of the country's political structures, executive and judicial authorities. The Government comprises the Prime Minister and 12 Ministries. Since 1998, after the adoption of the corresponding law local governance has also been operational in Nagorny Karabakh. In 2006 the Constitution of the Republic was adopted via

referendum. Regular presidential, parliamentary and local elections have been held since December 1991.[4] The most recent presidential elections were held in Nagorny Karabakh in 2007 and Bako Sahakyan was elected the new President of the Republic.

Government engaged in discussions with foreign States: On 20 September 1992, the Parliament of Nagorny Karabakh petitioned the United Nations, the Commonwealth of Independent States, and individual countries for recognition. A series of documents on Nagorny Karabakh problem adopted by various international organizations, as well as numerous mediation efforts of individual States, clearly demonstrate that Nagorny Karabakh has always been a prominent factor in the peace negotiations, a regional factor and an independent entity, which is proved by a number of signatures of officials of Nagorny Karabakh on various documents. These documents include the Zheleznovodsk Communiqué of 23 September 1991, issued after official talks held in Zheleznovodsk, Russia, at the initiative of the Russian and Kazakh Presidents; the Sochi Agreement of 19 September 1992, signed by the defence authorities of Azerbaijan, Nagorny Karabakh and Armenia, which calls for cessation of all military activities for two months; a military-technical protocol on the implementation of the Sochi Agreement signed on 25 September 1992, in Moscow; the Timetable of Urgent Steps proposed by the Chairman of the CSCE Minsk Group of September 1993, in which Nagorny Karabakh appears as a side to the conflict for the first time; the Bishkek Protocol of May 1994, signed at negotiations of the Speakers of Parliaments of Armenia, Azerbaijan and Nagorny Karabakh; and the Agreement on ceasefire, mediated by the Russian Federation on 12 May 1994, and signed by the Ministers of Defence of Armenia and Azerbaijan and the Commander of the Nagorny Karabakh armed forces. Besides, starting from 1992, the authorities of Azerbaijan held regular direct contacts with the authorities of Nagorny Karabakh: 15 September 1992, contacts between the representatives of Azerbaijan and Nagorny Karabakh in Moscow; 28 July 1993, meeting of governmental delegations of Nagorny Karabakh Republic and Azerbaijan, headed by the Chairman of the Nagorny Karabakh Republic Self-Defence Committee Serzh Sargsyan and Azerbaijani Acting Defence Minister Safar Abiyev at the Martakert contact line. Foreign Minister of the Nagorny Karabakh Republic Ghoukasian, Head of National Security Department of the Nagorny Karabakh Republic Abrahamian, Deputy Minister of Internal Affairs of the Nagorny Karabakh Republic Aghassian and State Minister of Azerbaijan Aliev, representative of Foreign Ministry of Azerbaijan Zoulfougarov and Chairman of the Commission on exchange of hostages of Azerbaijan Kiazimov were also in the delegations of the parties. As a result, the parties signed an Agreement on prolongation of the previous agreement on refraining from any military activities; negotiations between the Deputy Chairman of the Supreme Council of the Azerbaijani Republic A. Jalilov and Foreign Minister of the Republic of Nagorny Karabakh A. Ghoukasian held on 12 and 13 September 1993, in Moscow where a joint communiqué was adopted; the meeting between the Vice Prime Ministers of Nagorny Karabakh and Azerbaijan (Zh. Poghosian and A. Abbasov) held on 25 September 1993 on the Aghdam contact line; meeting of the leaders of Azerbaijan and Nagorny Karabakh held on

[4] The elections were observed by international observers (British Helsinki Human Rights Group, Centre for the Comparative Study of Elections, Moscow Academy of Sciences for National Security Issues, Moscow Foundation for Social, Economic and Intellectual Programs).

25 September 1993 in Moscow; regular communications were held between Baku and Stepanakert at the level of military and political leaders in summer and fall 1993.

In 1993-1994, a series of trilateral negotiations under Russian mediation took place in Moscow between the political top leadership and representatives of Defence Ministries of the Republic of Azerbaijan, the Republic of Nagorny Karabakh and the Republic of Armenia. As a result, several agreements were reached on reciprocal cessation of artillery bombardments and offensive military operations, prolongation of the ceasefire regime, mutual release of the detained women and children, and other issues. The active involvement of Nagorny Karabakh in the process of negotiations within the CSCE framework is witnessed by the First Additional meeting of the CSCE Council held in Helsinki on 24 March 1992, which decided to convene a conference on Nagorny Karabakh and invited the legitimate authorities of Nagorny Karabakh to the Conference as an interested party; the 1994 CSCE Budapest Summit, where the participating States welcomed the affirmation of the ceasefire agreement reached on 12 May 1994, by the parties to the conflict (Azerbaijan, Nagorny Karabakh and Armenia) and announced their readiness to deploy multinational CSCE peacekeeping force, and reached an agreement on the creation of the High-level Planning Group of the OSCE; the 31 March 1995 statement of the OSCE Chairman-in-Office, which confirmed the previous OSCE decisions on the status of the parties to the conflict, and provided for the participation of the two member States involved in the conflict and Nagorny Karabakh as a third party to the conflict, as well as the Minsk Conference in the whole process of negotiations.

In addition, the OSCE Minsk Group Co-Chairs during their regional trips travel to Nagorny Karabakh and meet with the Karabakh authorities.

However, throughout the OSCE mediation process the Republic of Azerbaijan has refused to include the representatives of Nagorny Karabakh in the negotiation process despite the fact that the previous rounds of formal negotiations in the mid-1990s were conducted with the participation of representatives of Nagorny Karabakh. Azerbaijan concerned that the participation of Nagorny Karabakh in the talks might imply some degree of a de facto status for Nagorny Karabakh. Azerbaijan's such stance on the issue reveals its real objectives: (a) provide no support to the process of negotiations as long as possible, hoping that the revenues from the Caspian oil would help to pressure on Armenia and achieve a settlement in their favour; (b) falsify the nature of the conflict, to present it as a territorial dispute between Armenia and Azerbaijan with all relevant consequences; (c) obscure Azerbaijan's responsibility for transforming the process of self-determination of Nagorny Karabakh into a military conflict and the resulting de facto situation; and (d) act as a victim in need of international assistance.

Representative offices of Nagorny Karabakh in the United States of America, France, Russia, Lebanon, Germany, Australia and Armenia also show an active international involvement of the Republic of Nagorny Karabakh.

IV. International response to the blockade imposed on Armenia and Nagorny Karabakh

46. The international community, through the respective resolutions of international organizations, severely criticized the Azerbaijani blockade of the Republic of Armenia and Nagorny Karabakh, describing it as a violation of human rights, particularly in the European Parliament resolutions of 18 June 1987, 18 January 1990, and 21 January and 27 May 1993, the Council of Europe Parliamentary Assembly motion for recommendation on the situation in Nagorny Karabakh/Atkinson motion, submitted on 22 September 1992 by 30 members, etc.

The United States Congress has been actively engaged in promoting the resolution to the conflict. The Congress has focused its attention on Nagorny Karabakh primarily through foreign operations appropriations legislation: the allocation of funding to promote resolution of the Nagorny Karabakh conflict and provide incentives to the parties to the conflict to reach such a resolution; the provision of humanitarian assistance to the people of Nagorny Karabakh; the viability of restrictions on direct aid to the Republic of Azerbaijan put in place in response to Azerbaijan's blockade of the Republic of Armenia and the Republic of Nagorny Karabakh.

The international community must clearly and unambiguously react to the militaristic policy of Azerbaijan. Urgent steps must be taken to address the dangerous and volatile situation in the South Caucasus region, to prevent any possible military actions that are still at the planning stage and to ensure that Azerbaijan adheres to its international obligations.